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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------|
| 10/091,425  | 03/07/2002  | Shigenori Watari     | NIT-335                    | 9088             |
| 7590  | 11/19/2003  |                      |                            |                  |
| MATTINGLY, STANGER & MALUR, P.C.<br>SUITE 370<br>1800 DIAGONAL ROAD<br>ALEXANDRIA, VA 22314 |             |                      | EXAMINER<br>MEYER, DAVID C |                  |
|   |             |                      | ART UNIT<br>2878           | PAPER NUMBER     |

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |               |  |
|------------------------------|-----------------|---------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s)  |  |
|                              | 10/091,425      | WATARI ET AL. |  |
|                              | Examiner        | Art Unit      |  |
|                              | David C. Meyer  | 2878          |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4,6,7,9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments, see pages 9-11 of the Amendment, filed August 8, 2003, with respect to the rejection(s) of claim(s) 1, 2, and 5 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sjodin (US 4,179,707).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Sjodin (US 4,179,707).

Regarding claim 1, Sjodin discloses a system for automatically measuring lengths of elongated workpieces such as pieces of lumber. The system employs a background panel comprising plate-like floor elements whose upper surfaces define a plane 4, over which the workpieces 2 are transported. A discontinuity formed by a pit or well 9 constitutes a mark in plane 4. A processor 30 controls an optical scan of a workpiece, receiving electronic data from a camera 19. The data is then used to calculate the length of the workpiece. The discontinuity is located in a scanning area 24 and, because it is shadowed, creates a mark against which the ends of the workpiece

Art Unit: 2878

can be detected by the camera. (See Figs. 1, 3, and 4 and column 3, line 43 to column 6, line 57.)

Regarding claim 8, the preceding argument applies with the following addition. Claim 8 recites "an optical scanning information reader which reads a code pattern by means of scanning light". However, claim 8 does not specify where the code pattern is located, the manner of information contained in the pattern, or what the pattern looks like. Hence, the position of workpieces in the scanning area could loosely be called a coded pattern, which the camera reads to extract length information.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sjodin as applied to claim 1 under 35 U.S.C. 102(b), and in further view of Pope (US 4,852,029). Sjodin does not disclose that the workpieces have a code pattern arranged along their lengths. However, claim 2 does not specify how the code pattern is used or what the code pattern looks like. Furthermore, claim 2 does not state that the code pattern is read in any way during the optical scan of the detection object. Hence, any type of marking used during workpiece processing to indicate a feature of the workpiece could constitute the recited "code pattern", even one that was completely unrelated to length determination. It is well known to place a marking on a piece of lumber during

Art Unit: 2878

processing to indicate, for example, a grade of the workpiece, as taught by Pope. Pope discloses a material classification apparatus that marks a piece of lumber according to its detected grade. The feature of a "code pattern" would have been obvious to one of ordinary skill in the art at the time of invention given that it is well known to mark a workpiece during processing to indicate various features, such as, when the workpiece is a piece of lumber, grade or quality.

Claim 5 is rejected because it is broad. "An auxiliary symbol in a neighborhood of said mark as a standard" could be anything, and given the broadness of the term neighborhood, it could be located just about anywhere. Hence, detectors 32 and 33 could constitute auxiliary symbols in a neighborhood of said mark as a standard (pit 9).

***Allowable Subject Matter***

Claims 3, 4, 6, and 7 were allowed in the previous Office Action and reasons for allowance were given. The current amendments to these claims do not affect their allowability or the reasons for allowance.

Claims 9 and 10 are allowed. The following is an examiner's statement of reasons for allowance: The prior art of record does not disclose or suggest the invention as claimed, wherein a code pattern is arranged along a length direction of the detection object and wherein the same optical scanning information reader that scans the detection object in order to perform an automatic size detection also reads said code pattern by means of scanning light.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

Application/Control Number: 10/091,425  
Art Unit: 2878

Page 5


accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Meyer whose telephone number is 703-305-7955. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on 703-308-4852. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0935.

DCM  
November 13, 2003



**DAVID PORTA**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**